

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

BENNY DECARLO GALLEGOS,

Plaintiff,

v.

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

Case No. 1:23-cv-00090-SAB

ORDER REQUIRING PLAINTIFF TO
SHOW CAUSE WHY SANCTIONS
SHOULD NOT BE IMPOSED FOR
FAILURE TO FILE OPENING BRIEF

(ECF No. 5, 12, 13)

On January 20, 2023, Plaintiff Benny DeCarlo Gallegos, proceeding *pro se*, filed this action seeking judicial review of a final decision of the Commissioner of Social Security (“Commissioner”) denying an application for disability benefits pursuant to the Social Security Act. (ECF No. 1.) On January 24, 2023, the Court issued a scheduling order. (ECF No. 5.) Pursuant to the scheduling order, Plaintiff’s motion for summary judgment was due 45 days after service of the administrative record. (*Id.* at 2.) The administrative record was filed and served on March 24, 2023. (ECF No. 11.) Plaintiff’s motion for summary judgment was therefore due by May 8, 2023. On May 9, 2023, the Court noted Plaintiff had not filed his motion for summary judgment or other filing by the deadline, and issued an order to show cause why sanctions should not issue for failure to file the motion for summary judgment in compliance with the Court’s scheduling order (ECF No. 5). (ECF No. 12.) On May 10, 2023, Plaintiff’s motion for summary judgment was entered on the docket as filed on May 9, 2023. (*See* ECF No. 13.) Having noted Plaintiff’s motion was filed on the same day the Court issued

its order to show cause, the Court shall discharge the order to show cause and sua sponte grant Plaintiff a one-day nunc pro tunc extension to file his brief.

Accordingly, IT IS HEREBY ORDERED that:

1. The Court's May 9, 2023 order to show cause (ECF No. 12) is DISCHARGED;
and
2. Plaintiff is granted a nunc pro tunc extension of one day on the deadline to file his motion for summary judgment and the brief is deemed timely submitted as of May 9, 2023.

IT IS SO ORDERED.

Dated: May 10, 2023



UNITED STATES MAGISTRATE JUDGE